

ESTTA Tracking number: **ESTTA226537**

Filing date: **07/25/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91183905
Party	Plaintiff Google Inc.
Correspondence Address	James L. Vana Pekins Coie LLP 1201 Third Avenue40th Floor Seattle, WA 98101-3099 UNITED STATES pctrademarks@perkinscoie.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Richard R. Ronald
Filer's e-mail	pctrademarks@perkinscoie.com, rronald@perkinscoie.com
Signature	/Richard R. Ronald/
Date	07/25/2008
Attachments	91183905 Consented Motion _ Amended Notice of Opposition.pdf (91 pages) (4554266 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

ERIC WATSON,

Applicant.

Opposition No.: 91183905

Application Serial No.: 77/020,099

Filing Date: October 12, 2006

Publication Date: November 6, 2007

CONSENTED MOTION FOR LEAVE TO FILE AMENDED NOTICE OF OPPOSITION
FOR OPPOSITION NO. 91183905

Opposer Google Inc., by its undersigned attorneys and pursuant to 37 C.F.R. §2.107 and Federal Rules of Civil Procedure 15(a), hereby moves to amend its Notice of Opposition for Opposition No. 91183905.

An Amended Notice of Opposition is attached as Exhibit 1.

Applicant's counsel, Michael F. Hughes, provided written consent to these amendments on July 25, 2008.

Respectfully submitted,

CERTIFICATE OF SERVICE

I hereby certify that this CONSENTED MOTION FOR LEAVE TO FILE AMENDED NOTICE OF OPPOSITION FOR OPPOSITION NO. 91183905 is being deposited with the United States Postal Service with sufficient postage as first class mail on July 25 2008 in an envelope addressed to Michael F. Hughes, attorney for Applicant, at Hughes Law Firm, PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98226-5583.

Signature: Lauren Stevenson

Printed Name: Lauren Stevenson

PERKINS COIE LLP

By James L. Vana

James L. Vana
Richard R. Ronald
Perkins Coie LLP
1201 Third Avenue, 40th Floor
Seattle, Washington 98101-3099
(206) 359-3036
Attorneys for Google Inc.

EXHIBIT 1

AMENDED NOTICE OF OPPOSITION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

ERIC WATSON,

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Opposition No.: 91183905

AMENDED NOTICE OF OPPOSITION

Application Serial No.: 77/020,099

Filing Date: October 12, 2006

Publication Date: November 6, 2007

Google Inc. ("Opposer") believes that it will be damaged by registration of the mark GOOTUBE.COM ("Applicant's Mark") by Eric Watson ("Applicant") with those services ("Applicant's Services") listed in Application Serial No. 77/020,099 (the "Application"), and hereby opposes the Application. As grounds for its opposition, Opposer alleges as follows:

I. PARTIES

1. Opposer is a Delaware corporation having its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043.
2. On information and belief, Applicant is an individual citizen of the United States of America, residing at 7718 46th Place West, Mukilteo, WA 98275.

II. OPPOSER'S MARK, GOODS AND SERVICES

3. Opposer is the owner of applications Serial No. 78/802,261 and 78/802,278 ("Opposer's YOUTUBE Applications"), for the trademarks YOUTUBE and YOU TUBE ("Opposer's YOUTUBE Marks").
4. Soft copies of Opposer's YOUTUBE Applications, in the form of excerpts from the on-line records of the federal Trademark Office, are attached as Exhibit A hereto.
5. Opposer's Applications cover those goods and services ("Opposer's YOUTUBE Goods and Services") listed in Opposer's YOUTUBE Applications.

6. Opposer provides a variety of services, including an online video service, with an Internet website where users can upload, watch and share original videos across the Internet through websites, mobile devices, blogs, and email under Opposer's YOUTUBE Marks.
7. Each of Opposer's YOUTUBE Applications was filed before October 12, 2006.
8. Opposer provides a search engine for use by consumers in searching the Internet ("Opposer's Search Engine Services") under the trademark GOOGLE ("Opposer's GOOGLE Mark").
9. Opposer is the owner of those registrations ("Opposer's GOOGLE Registrations") listed in Exhibit B attached hereto.
10. Opposer is the owner of those applications ("Opposer's GOOGLE Applications") listed in Exhibit C attached hereto.
11. Opposer provides a variety of other goods and services under Opposer's GOOGLE Mark, including the hosting of digital content on the Internet, including videos and applications, news, maps, web mail with instant messaging, electronic retailing services, online advertising services, online word processing and spreadsheet applications, online website analysis tools, and a local directory, as well as those goods and services listed on Exhibits B and C attached hereto (together with Opposer's Search Engine Services, "Opposer's GOOGLE Goods and Services").
12. Each of Opposer's GOOGLE Registrations and Applications was filed before October 12, 2006.
13. On October 9, 2006, Opposer Google Inc. announced it would acquire YouTube. *See* Exhibit D.
14. Both prior to and immediately following Google Inc.'s acquisition of YouTube, it was common in the press and other media to refer to Opposer as GooTube, a combination of the GOOGLE and YOUTUBE marks. *See* Exhibit E, providing examples.

IV. APPLICANT'S MARK AND SERVICES

15. The Application was filed on October 12, 2006 ("Applicant's Filing Date") based on an intent to use Applicant's Mark in commerce.
16. The Application was published for opposition in the Official Gazette on November 6, 2007.
17. The services listed in the Application are "Hosting of digital content on the internet, namely, hosting of digital media content for infants, children, and the parents of small children."

18. On information and belief, Applicant has not used Applicant's Mark in commerce with any of Applicant's Services prior to Applicant's Filing Date.

V. PLEADING HISTORY

19. On December 6, 2007, Opposer filed a request to extend the time to oppose registration of Applicant's Mark. The Trademark Trial and Appeal Board granted Opposer's request, resetting Opposer's deadline to file a Notice of Opposition for January 5, 2008. *See* Exhibit F attached hereto.
20. On January 4, 2008, Opposer filed a request to further extend the time to oppose registration of Applicant's Mark. The Trademark Trial and Appeal Board subsequently granted a further extension of time until March 5, 2008. *See* Exhibit F attached hereto.
21. On March 3, 2008, with Applicant's consent, Opposer filed a request to further extend the time to oppose registration of Applicant's Mark. The Trademark Trial and Appeal Board subsequently granted a further extension of time until May 4, 2008. *See* Exhibit F attached hereto.
22. Because May 4, 2008 was a Sunday, the effective deadline to oppose registration of Applicant's Mark was May 5, 2008.
23. On May 5, 2008, Opposer filed its Notice of Opposition to registration of Applicant's mark. *See* Exhibit F.
24. On May 5, 2008, the Trademark Trial and Appeal Board provided the parties with a Notice of the Opposition and a Scheduling Order. *See* Exhibit F.
25. On June 16, 2008, Applicant filed its Answer to the Notice of Opposition. *See* Exhibit F.
26. On July 25, 2008, Opposer filed a Consented Motion for Leave to File Amended Notice of Opposition in connection with this Amended Notice of Opposition.

VI. LIKELIHOOD OF CONFUSION CLAIM

27. Opposer's YOUTUBE Marks are distinctive for Opposer's YOUTUBE Goods and Services.
28. For each of the use-based services listed in Opposer's YOUTUBE Applications (attached hereto as Exhibit A), Opposer has continuously used Opposer's YOUTUBE Marks in connection with such services since the first use dates claimed in such applications.

29. Opposer has not abandoned Opposer's YOUTUBE Marks in connection with any of Opposer's YOUTUBE Goods and Services.
30. Opposer has priority with respect to Opposer's YOUTUBE Marks versus Applicant's Mark.
31. As a result of its extensive use and promotion, Opposer's YOUTUBE Marks have developed substantial goodwill and are strong and famous marks.
32. Opposer's GOOGLE Mark is distinctive for Opposer's GOOGLE Goods and Services.
33. For each of the goods and services listed in Opposer's GOOGLE Registrations (attached hereto as Exhibit B) and each of the use-based goods and services listed in Opposer's Google Applications (attached hereto as Exhibit C), Opposer has continuously used Opposer's GOOGLE Mark in connection with such services since the first use dates claimed in such registrations and applications.
34. Opposer has not abandoned Opposer's GOOGLE Mark in connection with any of Opposer's GOOGLE Goods and Services.
35. Opposer has priority with respect to Opposer's GOOGLE Mark versus Applicant's Mark.
36. As a result of its extensive use and promotion, Opposer's GOOGLE Mark has developed substantial goodwill and is a strong and famous mark.
37. When spoken, Opposer's GOOGLE Mark consists of two syllables – GOO and GLE.
38. Opposer's YOUTUBE Mark consists of two terms – YOU and TUBE.
39. When spoken, Opposer's YOUTUBE Mark consists of two syllables – YOU and TUBE.
40. Applicant's Mark is composed of the term GOOTUBE and the top-level domain .COM.
41. When spoken, the term GOOTUBE in Applicant's Mark consists of two syllables – GOO and TUBE.
42. The term GOOTUBE in Applicant's Mark consists of two terms – GOO and TUBE.
43. When spoken, the term GOOTUBE in Applicant's Mark has the same initial syllable as GOOGLE.
44. When spoken, the term GOOTUBE in Applicant's Mark has the same final syllable as YOUTUBE.

45. The term GOOTUBE in Applicant's Mark is a combination of the first syllable of Opposer's GOOGLE Mark and the last syllable of Opposer's YOUTUBE Mark.
46. Applicant's Mark is a combination of Opposer's GOOGLE and YOUTUBE Marks.
47. When spoken, Applicant's Mark has two syllables with emphasis placed equally on each.
48. When spoken, the terms YOUTUBE and GOOTUBE rhyme and have the same emphasis pattern.
49. Opposer's YOUTUBE Marks and Applicant's Mark are highly similar.
50. Applicant's Services are related to Opposer's YOUTUBE Goods and Services.
51. Opposer's GOOGLE Mark and Applicant's Mark are highly similar.
52. Applicant's Services are related to Opposer's GOOGLE Goods and Services.
53. In view of the highly similar nature of the parties' marks and the related nature of the goods and services of the parties, Applicant's Mark so resembles Opposer's YOUTUBE Marks as to be likely to cause confusion, or to cause mistake, or to deceive as to the origin, sponsorship and approval of Applicant's Services, and is likely to suggest an affiliation, connection or association of Applicant and Applicant's Services with Opposer and Opposer's Goods and Services, with consequent injury to Opposer, the trade and to the public.
54. In view of the highly similar nature of the parties' marks and the related nature of the goods and services of the parties, Applicant's Mark so resembles Opposer's GOOGLE Mark as to be likely to cause confusion, or to cause mistake, or to deceive as to the origin, sponsorship and approval of Applicant's Services, and is likely to suggest an affiliation, connection or association of Applicant and Applicant's Services with Opposer and Opposer's GOOGLE Goods and Services, with consequent injury to Opposer, the trade and to the public.
55. The registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with Opposer's YOUTUBE Marks. Therefore, the registration of Applicant's Mark would damage and injure Opposer.

56. The registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with Opposer's GOOGLE Mark. Therefore, the registration of Applicant's Mark would damage and injure Opposer.
57. Opposer will also be damaged by the registration of Applicant's Mark because such registration will support statutory rights for Applicant in violation and derogation of Opposer's prior, superior and exclusive rights in Opposer's YOUTUBE Marks and GOOGLE Mark.

VII. REQUEST FOR RELIEF

WHEREFORE, Opposer requests that the mark in Application Serial No. 77/020,099 be denied registration in Class 42.

Respectfully submitted,


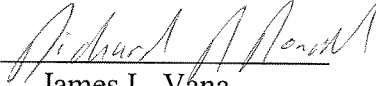
<p>CERTIFICATE OF SERVICE</p> <p>I hereby certify that this AMENDED NOTICE OF OPPOSITION is being deposited with the United States Postal Service with sufficient postage as first class mail on July 25 2008 in an envelope addressed to Michael F. Hughes, attorney for Applicant, at Hughes Law Firm, PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98226-5583.</p> <p>Signature: <u></u></p> <p>Printed Name: <u>Lauren Stevenson</u></p>	<p>PERKINS COIE LLP</p> <p>By <u></u></p> <p>James L. Vana Richard R. Ronald Perkins Coie LLP 1201 Third Avenue, 40th Floor Seattle, Washington 98101-3099 (206) 359-3036 Attorneys for Google Inc.</p>
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Exhibit A

Soft Copies of Opposer's YOUTUBE Applications

TARR Status

Assign Status

TDR

TTAB Status

(Use the "Back" button of the Internet Browser to return to TESS)

YouTube

Word Mark

YOUTUBE

Goods and Services

IC 009. US 021 023 026 036 038. G & S: (Based on Intent to Use) Software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network

IC 035. US 100 101 102. G & S: (Based on Intent to Use) Advertising and advertisement, promotion and marketing services for providing electronic media or information over the Internet or other communications network

IC 038. US 100 101 104. G & S: Audio and video broadcasting services over the Internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing access to information, audio, and video via websites, online forums, chat rooms, listservs and blogs over the Internet; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest. FIRST USE: 20050424. FIRST USE IN COMMERCE: 20050424

IC 041. US 100 101 107. G & S: Education and entertainment services, namely, providing a website featuring audio clips, video clips, musical performances, musical videos, film clips, photographs, other multimedia materials, and information in the field of audio clips, video clips, musical performances, musical videos, film clips, photographs, and other multimedia materials; blogs featuring information in the field of audio clips, video clips, musical performances, musical videos, film clips, photographs, and other multimedia materials. FIRST USE: 20050424. FIRST USE IN COMMERCE: 20050424

IC 042. US 100 101. G & S: Application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network. FIRST USE: 20050424. FIRST USE IN COMMERCE: 20050424

Standard

Characters

Claimed

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Serial Number

78802261

Filing Date

January 30, 2006

Current Filing Basis	1A;1B
Original Filing Basis	1A
Published for Opposition	September 25, 2007
International Registration Number	0897049
Owner	(APPLICANT) GOOGLE INC. CORPORATION DELAWARE 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW CALIFORNIA 94043
Assignment Recorded	ASSIGNMENT RECORDED
Type of Mark Register	TRADEMARK. SERVICE MARK PRINCIPAL
Live/Dead Indicator	LIVE



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Assignments on the Web > Trademark Query



Trademark Assignment Abstract of Title

Total Assignments: 5

Serial #: 78802261

Applicant: YouTube, Inc.

Mark: YOUTUBE

Filing Dt: 01/30/2006

Reg #: NONE

Reg. Dt:

Assignment: 1

Reel/Frame: 3539/0826

Received: 05/10/2007

Recorded: 05/10/2007

Pages: 5

Conveyance: MERGER

Assignor: SNOWMASS HOLDINGS, INC.

Exec Dt: 11/13/2006

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: YOUTUBE, INC.

1000 CHERRY AVENUE, SUITE 200
SAN BRUNO, CALIFORNIA 94066

Correspondent: TANDA L.NEUNDORF,ESQ.,FENWICK & WEST LLP

SILICON VALLEY CENTER

801 CALIFORNIA STREET

MOUNTAIN VIEW, CA 94041-2008

Assignment: 2

Reel/Frame: 3540/0216

Received: 05/11/2007

Recorded: 05/11/2007

Pages: 4

Conveyance: MERGER

Assignor: YOUTUBE, INC.

Exec Dt: 11/13/2006

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: SNOWMASS NEWCO, LLC

1600 AMPHITHEATER PARKWAY
MOUNTAIN VIEW, CALIFORNIA 94043

Correspondent: TANDA L.NEUNDORF,ESQ.,FENWICK & WEST LLP

SILICON VALLEY CENTER

801 CALIFORNIA STREET

MOUNTAIN VIEW, CA 94041-2008

Assignment: 3

Reel/Frame: 3540/0635 **Received:** 05/11/2007

Recorded: 05/11/2007

Pages: 3

Conveyance: CHANGE OF NAME

Assignor: SNOWMASS NEWCO, LLC

Exec Dt: 11/13/2006

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: YOUTUBE, LLC

1000 CHERRY AVENUE, SUITE 200

SAN BRUNO, CALIFORNIA 94066

Citizenship: DELAWARE

Correspondent: TANDA L. NEUNDORF, ESQ., FENWICK & WEST LLP

SILICON VALLEY CENTER

801 CALIFORNIA STREET

MOUNTAIN VIEW, CA 94041-2008

Assignment: 4

Reel/Frame: 3551/0521 **Received:** 05/30/2007

Recorded: 05/30/2007

Pages: 7

Conveyance: SUBMISSION IS TO CORRECT AN ERROR MADE IN A PREVIOUSLY RECORDED DOCUMENT THAT ERRONEOUSLY AFFECTS THE IDENTIFIED APPLICATIONS. SNOWMASS HOLDINGS INC. WAS NEVER THE OWNER OF THE APPLICATIONS.

Assignor: YOUTUBE, INC.

Exec Dt: 11/13/2006

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: YOUTUBE, INC.

1000 CHERRY AVENUE, SUITE 200

SAN BRUNO, CALIFORNIA 94066

Citizenship: DELAWARE

Correspondent: TANDA L. NEUNDORF, ESQ.

SILICON VALLEY CTR., 801 CALIFORNIA ST.

MOUNTAIN VIEW, CA 94041

Assignment: 5

Reel/Frame: 3588/0001 **Received:** 07/24/2007

Recorded: 07/24/2007

Pages: 6

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: YOUTUBE, LLC

Formerly: FORMERLY SNOWMASS NEWCO LLC

Exec Dt: 07/24/2007

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: GOOGLE INC.

1600 AMPHITHEATRE PARKWAY

MOUNTAIN VIEW, CALIFORNIA 94043

Entity Type: CORPORATION

Citizenship: DELAWARE

Correspondent: TU TSAO

1600 AMPHITHEATRE PARKWAY

MOUNTAIN VIEW, CA 94043

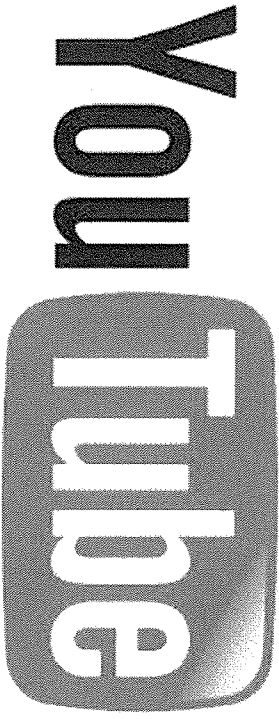
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TARR Status	ASSIGN Status	TDR	TTAB Status
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Word Mark YOU TUBE

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Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 26.11.02 - Plain single line rectangles; Rectangles (single line)
26.11.21 - Rectangles that are completely or partially shaded

Serial Number 78802278

Filing Date January 30, 2006

Current Filing 1A:1B

Basis	
Original Filing Basis	1A
Published for Opposition	September 25, 2007
Owner	(APPLICANT) GOOGLE INC. CORPORATION DELAWARE 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW CALIFORNIA 94043
Assignment Recorded	ASSIGNMENT RECORDED
Description of Mark	"The color(s) black, red and white is/are claimed as a feature of the mark. . "The mark consists of the word "You" in black, and the word "Tube" in white on a red viewing monitor."
Type of Mark	TRADEMARK. SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title



Total Assignments: 5

Serial #: 78802278

Applicant: YouTube, Inc.

Mark: YOU TUBE

Filing Dt: 01/30/2006

Reg #: NONE

Reg. Dt:

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Assignment: 2

Reel/Frame: 3540/0216

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Assignee: GOOGLE INC.

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Entity Type: CORPORATION
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Correspondent: TU TSAO

1600 AMPHITHEATRE PARKWAY

MOUNTAIN VIEW, CA 94043

Web interface last modified: April 20, 2007 v.2.0.1

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Exhibit B

Opposer's Registrations for the GOOGLE Mark

Reg. No.: 2,806,075	Reg. Date: 1/20/04
<u>Class 38</u> : Providing electronic mail and workgroup communications services over computer networks; providing multiple user access to proprietary collections of information by means of global computer information networks (First use date: 9/1997)	
<u>Class 42</u> : computer services, namely, providing software interfaces available over a network in order to create a personalized on-line information service; extraction and retrieval of information and data mining by means of global computer networks; creating indexes of information, indexes of web sites and indexes of other information sources in connection with global computer networks; providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, by means of global computer information networks (First use date: 9/1997)	
Reg. No.: 2,884,502	Reg. Date: 9/14/04
<u>Class 9</u> : computer hardware; computer software for creating indexes of information, indexes of web sites and indexes of other information resources (First use date: 1/26/2000)	
Reg. No.: 2,954,071	Reg. Date: 5/24/05
<u>Class 9</u> : Mouse pads, calculators (First use date: 7/31/1999)	
<u>Class 11</u> : Flashlights, lamps (First use date: 7/31/1999)	
<u>Class 12</u> : License plate frames and holders (First use date: 7/31/1999)	
<u>Class 16</u> : Books, namely children's books, books on the subject of computers, notebooks, pens, greeting cards, stickers, decals (First use date: 7/31/1999)	
<u>Class 18</u> : Bags, namely, tote bags, duffle bags, backpacks; luggage tags; umbrellas (First use date: 7/31/1999)	
<u>Class 21</u> : Mugs, tumblers (First use date: 7/31/1999)	
<u>Class 25</u> : Clothing, namely, shirts, t-shirts, vests, hats, caps, boxer shorts; children's clothing, namely, t-shirts (First use date: 7/31/1999)	
<u>Class 28</u> : Sporting equipment, namely, plastic exercise balls (First use date: 7/31/1999)	
<u>Class 35</u> : Electronic retailing services via computer featuring mouse pads, flashlights, lamps, license plate frames and holders, books, notebooks, pens, greeting cards, stickers, decals, tote bags, duffel bags, backpacks, luggage tags, umbrellas, mugs, tumblers, shirts, t-shirts, modem cords, vests, caps, hats, and other clothing items (First use date: 9/1999)	
Reg. No.: 3,140,793	Reg. Date: 9/12/2006
<u>Class 9</u> : Computer software for searching, compiling, indexing and organizing information on computer networks; computer hardware, computer software for searching, compiling, indexing, and organizing information within individual workstations and personal computers; computer software for creating indexes of information, indexes of web sites and indexes of other information resources; mouse pads (First use date: 11/2000)	
<u>Class 11</u> : Lamps (First use date: 6/2000)	
<u>Class 12</u> : License plate frames and holders (First use date: 6/2000)	
<u>Class 16</u> : Notebooks, pens, stickers, decals (First use date: 6/2000)	
<u>Class 18</u> : Bags, namely, tote bags, duffle bags, backpacks; umbrellas (First use date: 6/2000)	
<u>Class 21</u> : Mugs, tumblers (First use date: 6/2000)	
<u>Class 25</u> : Clothing, namely, shirts, t-shirts, vests, hats, caps, boxer shorts; children's clothing, namely, t-shirts (First use date: 1/2001)	
<u>Class 28</u> : Sporting equipment, namely, plastic exercise balls (First use date: 1/2001)	

Class 35: Electronic retailing services via computer featuring mouse pads, lamps, license plate frames and holders, notebooks, pens, stickers, decals, tote bags, duffel bags, backpacks, umbrellas, mugs, tumblers, shirts, t-shirts, modem cords, toys, vests, caps, hats, and other clothing items (First use date: 7/31/1999)

Class 38: Providing multiple user access to proprietary collections of information by means of global computer information networks (First use date: 9/1997)

Class 42: Computer services, namely, providing software interfaces available over a network in order to create personalized on-line information services; extraction and retrieval of information and data mining by means of global computer networks; creating indexes of information, indexes of web sites and indexes of other information sources in connection with global computer network; providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphic and audio visual information, by means of global computer information networks (First use date: 9/1997)

Exhibit C

Opposer's Applications for the GOOGLE Mark

App. No.: 78/828,053	Filing Date: 3/2/2006
Class 36: Charitable fundraising; providing grants to charitable organizations; financial services; financial transaction processing services; payment and billing services (First use date: 4/1/2003)	
App. No.: 78/828,042	Filing Date: 3/2/2006
Class 38: Telecommunication services; data transmission and reception services via telecommunication means; electronic exchange of voice, data, and graphics accessible via computer and telecommunication networks; providing multiple-user access to a global computer information network; internet cafe services, namely, providing telecommunications connections to the internet in a cafe environment; bulletin board and discussion group services; electronic mail services; workgroup communications services over computer networks; instant messaging services; voice over ip services; computer communication services; wireless communication services; mobile phone communication services (First Use Date: 2/12/2001)	
App. No.: 78/433,507	Filing Date: 6/10/2004
Class 35: Dissemination of advertising for others via the Internet (First use date: 10/2000)	

Exhibit D

Press Release Announcing Google Inc.'s Acquisition of YouTube

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Google To Acquire YouTube for \$1.65 Billion in Stock

Combination Will Create New Opportunities for Users and Content Owners Everywhere

MOUNTAIN VIEW, Calif., October 9, 2006 - Google Inc. (NASDAQ: GOOG) announced today that it has agreed to acquire YouTube, the consumer media company for people to watch and share original videos through a Web experience, for \$1.65 billion in a stock-for-stock transaction.

Following the acquisition, YouTube will operate independently to preserve its successful brand and passionate community.

The acquisition combines one of the largest and fastest growing online video entertainment communities with Google's expertise in organizing information and creating new models for advertising on the Internet. The combined companies will focus on providing a better, more comprehensive experience for users interested in uploading, watching and sharing videos, and will offer new opportunities for professional content owners to distribute their work to reach a vast new audience.

"The YouTube team has built an exciting and powerful media platform that complements Google's mission to organize the world's information and make it universally accessible and useful," said Eric Schmidt, Chief Executive Officer of Google. "Our companies share similar values; we both always put our users first and are committed to innovating to improve their experience. Together, we are natural partners to offer a compelling media entertainment service to users, content owners and advertisers."

"Our community has played a vital role in changing the way that people consume media, creating a new clip culture. By joining forces with Google, we can benefit from its global reach and technology leadership to deliver a more comprehensive entertainment experience for our users and to create new opportunities for our partners," said Chad Hurley, CEO and Co-Founder of YouTube. "I'm confident that with this partnership we'll have the flexibility and resources needed to pursue our goal of building the next-generation platform for serving media worldwide."

When the acquisition is complete, YouTube will retain its distinct brand identity, strengthening and complementing Google's own fast-growing video business. YouTube will continue to be based in San Bruno, CA, and all YouTube employees will remain with the company. With Google's technology, advertiser relationships and global reach, YouTube will continue to build on its success as one of the world's most popular services for video entertainment.

The number of Google shares to be issued in the transaction will be determined based on the 30-

day average closing price two trading days prior to the completion of the acquisition. Both companies have approved the transaction, which is subject to customary closing conditions and is expected to close in the fourth quarter of 2006.

Webcast and Conference Call Information

The company will host a conference call and webcast at 1:30 p.m. Pacific Time (4:30 p.m. Eastern Time) today to discuss the acquisition. To access the conference call, please dial 800-289-0572 domestic and 913-981-5543 internationally. A replay of the call will be available until midnight Monday, October 16 at 888-203-1112 domestically and 719-457-0820 internationally. Confirmation code for the replay is 2260624.

A live audio webcast of the conference call will be available at <http://investor.google.com/webcast.html>.

About Google Inc.

Google's innovative search technologies connect millions of people around the world with information every day. Founded in 1998 by Stanford Ph.D. students Larry Page and Sergey Brin, Google today is a top web property in all major global markets. Google's targeted advertising program provides businesses of all sizes with measurable results, while enhancing the overall web experience for users. Google is headquartered in Silicon Valley with offices throughout the Americas, Europe and Asia. For more information, visit www.google.com.

About YouTube

Founded in February 2005, YouTube is a consumer media company for people to watch and share original videos worldwide through a Web experience. YouTube allows people to easily upload and share video clips on www.YouTube.com and across the Internet through websites, blogs, and e-mail. YouTube currently delivers more than 100 million video views every day with 65,000 new videos uploaded daily and it has quickly become the leading destination on the Internet for video entertainment.

Caution Concerning Forward-Looking Statements

This document includes certain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, including statements regarding Google's and YouTube's ability to improve their services, create new business models and content-owner opportunities, integration plans, the expected timing for the closing of the acquisition and the plans to operate YouTube independently. These statements are based on the current expectations or beliefs of management of Google Inc., and are subject to uncertainty and changes in circumstances. Actual results may vary materially from those expressed or implied by the statements herein due to (1) changes in economic, business, competitive, technological and/or regulatory factors, (2) failure to receive regulatory approval for the acquisition, (3) failure to retain the levels of traffic on the YouTube site, (4) failure to compete successfully in this highly competitive and rapidly changing

marketplace, (5) failure to retain key employees, (6) other factors affecting the operation of the respective businesses of Google and YouTube, and (7) the failure of YouTube and Google to work together effectively. More detailed information about these factors may be found in filings by Google, as applicable, with the Securities and Exchange Commission, including their respective most recent Annual Report on Form 10-K and Quarterly Report on Form 10-Q. Google is under no obligation to, and expressly disclaims any such obligation to, update or alter their respective forward-looking statements, whether as a result of new information, future events, or otherwise.

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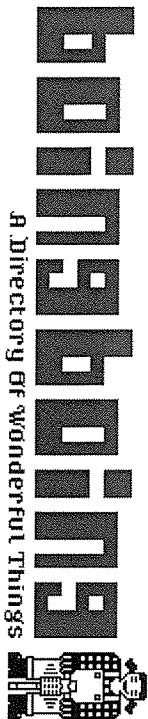
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Exhibit E

Examples of the Use of the term “GooTube” in Media Outlets



Google buys YouTube: GooTube.

POSTED BY XENI JARDIN, OCTOBER 9, 2006 11:25 PM | [PERMALINK](#)



Gizmodo dubbed the deal [GooTube](#). The ginormous search company [agreed to purchase the](#) profitless video-sharing startup started by twentysomethings for \$1.65 billion in stock. Today, most bystanders are flabbergasted. Wait five years, and it will probably all make sense, whatever form of sense it ends up making. That's how the internet works.

Mark Cuban, who last week said that only a "moron" would buy YouTube, today writes in a post titled "[I still think Google is crazy](#) :)" --

It will be interesting to see what happens next and what happens in the copyright world. I still think Google Lawyers will be a busy, busy bunch. I dont think you can sue Google into oblivion, but as others have mentioned, if Google gets nailed one single time for copyright violation, there are going to be more shareholder lawsuits than doans has pills to go with the pile on copyright suits that follow. Think maybe how Google discloses what they perceive the copyright risk to be in the SEC filings might be an interesting read ?

I think there will be supoenas to get the names of Youtube and Google Video users. Lots of them as those copyright owners not part of the gravy train go after both Google and their users for infringement.

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It will be interesting to see how this impacts DRM. As it stands now, there is no DRM on all that video being offered from Google or YouTube. Millions of copyrighted videos that their owners spent a boatload to copyprotect that is available to everyone and everyone without it. (Personally i think DRM is a waste of money, but will all those labels and content providers ?)

Charles Cooper at CNET today writes, "OK, so Eric Schmidt is a moron." A deal analysis piece by Andrew Ross Sorkin at the New York Times is [here](#).

BoingBoing's "band manager" [John Battelle](#) posted some thoughts about this possibility months ago, and today shares his initial reaction [here](#):

I am mixed on this. I think it's wise to frame this as "the companies will stay separate" kind of acquisition, even if in the end that's not the intent. But this marks Google's first significant "out of brand" acquisition, the company's first true brand-management challenge. I'm not counting Blogger in here because, well, it wasn't this big. More to come...

So what do Google and YouTube have in common? Some would say: censorship.

Google was slammed by free speech advocates for [complying with authorities in China](#) to launch a filtered [google.cn](#) this January. And YouTube has been the subject of growing criticism for takedown policies which are at best erratic, and at worst, de facto censorship.

In the New York Times, [Tom Zeller](#) writes:

YouTube users can flag any video as containing pornography, mature content or graphic violence, depicting illegal acts or being racially or ethnically offensive. A video is removed — as [Michelle] Malkin's was on Sept. 28 — only if a review by the company's customer support department agrees that it is inappropriate, or that the video is on its face in violation of the site's terms of use.

But the incident raised some questions about the fine line YouTube's administrators walk when they decide to respond to users' complaints about contributions to the

site — a mechanism that is fraught with the potential for vindictive shenanigans.

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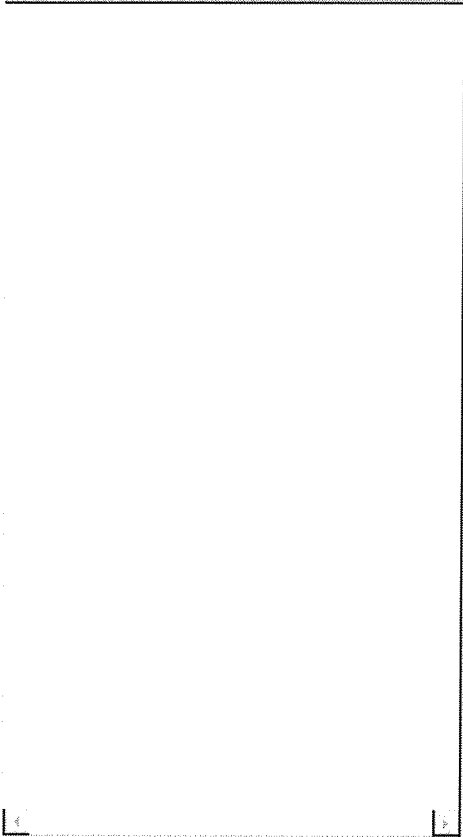
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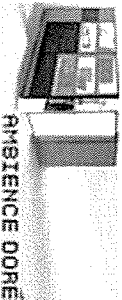
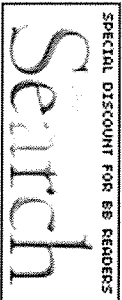
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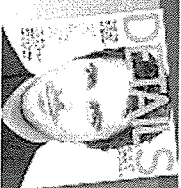
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commentary

Politics : Online Rights

The Good News About 'GooTube'

Eliot Van Buskirk 10.16.06

Everyone knows that Google bought YouTube last week, but it's hard to say what this so-called GooTube video service will look like a year from now. Just before the acquisition was made public, each service announced deals with record labels, and those come with strings attached.

As part of the deals, both sites will implement measures to hunt down infringing content on their sites using audio fingerprinting and other technologies. Some YouTube users reacted to the news by downloading their favorite videos with special software as a preventive measure against their possible deletion.

The fear that YouTube will lose much of what makes it great after these agreements is justified. It is hoped both sides (copyright holders and online distributors) learned the lesson of the original Napster -- a potential golden goose for the record labels that was slaughtered before it could start laying golden eggs.

This time around, the labels are starting to cooperate with GooTube one by one, seemingly allowing content to go un-DRMed on the site as long as they get a piece of the action, and some control over what gets posted on the site. YouTube has pulled infringing videos on a piecemeal basis, but no one has delivered a massive list of infringing files to YouTube or Google, the way Lars Ulrich did to Napster.

This could be because one of YouTube's many cultural byproducts has been to act as a Noah's Ark for analog content. Videos from the analog era that have made it onto YouTube have been granted passage into the digital age without the actual copyright owners having to spend any money digitizing it, and content owners, online distributors and users seem to agree that that's a good thing.

What's more, these deals allow people to create their own music videos to upload to YouTube using copyright sound recordings. This amounts to the labels giving GooTube users somewhat of a blanket license to create derivative works out of their music videos.

I see this new permissiveness as a major, positive offshoot of cooperation between the labels and GooTube; these unofficial, user-created music videos could become an important new format for fans and labels alike.

You can already find tons of lip-synce videos on YouTube featuring wannabes acting out their not-so-secret rock-star fantasies and lip-synching to their favorite songs. This trend will likely grow, now that the labels have realized that there's value in having legions of people shooting and watching what are essentially grass-roots advertisements for their songs.

And people are watching. One of the most popular videos ever on YouTube, with more than 10 million views, features two girls lip synching to "Hey" by The Pixies.

As word spreads that you can make your own videos for major hits without infringing copyright, we're going to see a lot more of these fan-created music videos. Even if people don't catch on right away, they will when an infrastructure grows around the idea, with more software and services centered on producing your own videos with major label music. This could be an important new way for the YouTube generation to interact with music.

Yahoo hopes to be among the first to capitalize on the phenomenon with its Get Your Break On program, in which fans upload video clips inspired by a particular hit song, which Yahoo edits into a new music video.

Things will get even more interesting when these artists formerly known as fans get more sophisticated and look beyond the simple lip synce to more creative types of videos. Warner Music Group's press release says its YouTube deal boasts more than music videos, and includes "behind-the-scenes footage, artist interviews, original programming and other special content."

These interviews will provide fertile ground for tomorrow's budding animators. One great example of this sort of interview mashup is this Busta Rhymes spot my friend Rob helped make for Fractured Hip using nothing but pre-existing audio from an interview.

The fan-created music videos we've seen so far are only the tip of the iceberg. The labels may have dropped the ball on P2P, but their more open approach to user-created videos on GooTube should pay off -- for all of us.

Eliot Van Buskirk, who also contributes to the Listening Post blog, has covered digital music since 1998, after seeing the world's first MP3 player

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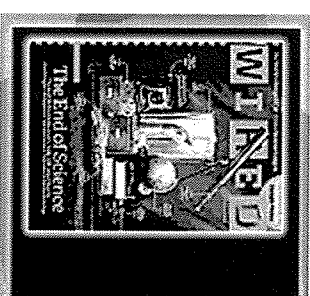
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YOUTUBE



The WSJ reports that Google's in talks to buy up YouTube, most likely to supplement or replace their flailing Google Video. As of now, Google Video lets companies like MTV, the NBA, and Nickelodeon sell videos on their store, whereas YouTube is mostly people uploading last night's South Park episode.

What does this mean to you if it's true? Well, our guess is

they're probably going to consolidate the two video sites. Doesn't really make sense to have two sets of developers working on what amounts to the same project. So one of the two is probably going away. As for Google, we'd like to see them work with handset providers and cellular providers so you can get GooTube on your mobile phone. The quality of videos are pretty poor already, so that's great for watching on a 2-inch cellphone screen. — Jason Chen

Report: Google in talks to buy YouTube [Yahoo News - Thanks ZerIn and Ray!]

COMMENTS

Papercutninja at 03:57 PM on 10/06/06

GooTube. That's going to make me laugh all day.

dschlaefer at 04:00 PM on 10/06/06

As was mentioned on one of CNet's BuzzCasts recently,

whoever buys YouTube would be pretty stupid. As soon as someone with decent pockets becomes the owner, they'll get the crap sued out of them by everyone with a copyrighted work hosted.

Peter Kirn **at** 04:08 PM on 10/06/06

I prefer YouGgle, myself.

And, yes, the relative failure of Google Video notwithstanding, this doesn't sound like Google's smartest move at the moment, not when they've got a lot of projects spreading them thin and failing to make money. It just doesn't seem to fit into the Google Ads strategy.

Justapspfan **at** 04:18 PM on 10/06/06

Nooooooooooooooooooooooooooooo, I like the way YouTube is setup. Google video sucks, I bet once Google gets its hands on YouTube you can forget about it.

Jeez is Goolge the new Microsoft of the Net, I hope not.

davidfbecke**r at** 04:35 PM on 10/06/06

I just want one of them to work in windows mobile 5 natively. flash and flash lite for pocket pc just do not work. I have other methods that I employ, such as VidConvert, which converts in real time to AVI and allows you to download that file directly.

<http://bleb.org/services/vidconvert/>
But I digress. GooTube forever. That would just be too funny.

smilbandit **at** 04:35 PM on 10/06/06

I second the youtube mobile idea. Makes more sense then full length movies.

UpIrons **at** 04:37 PM on 10/06/06

I'm surprised some of the hollywood types haven't bought it yet so they could shut it down and avoid a long law suit to kill the copyright infringements on there.

NoHitHair at 04:38 PM on 10/06/06

Billionaire Mark Cuban spoke on this exact subject just a couple days ago and stated that it would be incredibly stupid for a company to purchase YouTube.

dschlaefer is right - YouTube's potentially hundreds of thousands of copyright violations are being ignored currently due to a lack of finances for lawsuits to siphon. Give them a huge company like Google and that would no longer be an issue.

smokyburnout at 05:27 PM on 10/06/06

no, but google may be the new microsoft :p
this would be nice if they consolidated everything to .flv like youtube... because, unlike .gvi, theres actually converters out there to make the videos useful...
unless there IS a .gvi converter i havent heard about?

Toneman at 05:27 PM on 10/06/06



I hope they don't get rid of youtube. I have a weekly show with a good fanbase. It's my one ticket to fame!

Wheeliedude **at** 06:48 PM on 10/06/06

Plus, I wouldn't want the cumbersome interface of Google Video.

Either get rid of Google Video, or just change the logo.

Better yet, just integrate the video submission system of YouTube into Google Video.

dmpfan **at** 07:40 PM on 10/06/06

[http://youtube.com/index?](http://youtube.com/index?&session=gAJ9cQEoVQxIcnJvcI9maWVs...)

[&session=gAJ9cQEoVQxIcnJvcI9maWVs...](http://youtube.com/index?&session=gAJ9cQEoVQxIcnJvcI9maWVs...)

they took away my south park episodes!!

Narsil **at** 11:54 PM on 10/06/06

Google could make a killing by putting a five-second ad before each vid. I wouldn't even mind.

Gifter at 05:52 PM on 10/09/06

GooTube. Can you use it with the singing vibrator? I love Americal

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GooTube n. The business entity or web services created by the merger of Google and YouTube.

Example Citations:

The purchase of video site YouTube by search engine Google got Techman thinking. Maybe there are other synergies that offer opportunities for new brands and products.

For example, some folks are already referring to the site as **GooTube**.
—"Made-up mergers conjure what-ifs," *Pittsburgh Post-Gazette*, October 22, 2006

With whispers of imminent advertising and the elimination of illegal material, the exodus from YouTube may soon begin - or so hopes Arik Czerniak, chief executive of its competitor Metacafe. With roughly 16 million unique visitors per month, the website claims to be nipping at **GooTube's** heels.
—"Bye bye, YouTube, hello," *The Toronto Star*, October 22, 2006

Earliest Citation:

The WSJ reports that Google's in talks to buy up YouTube, most likely to supplement or replace their flailing Google Video. As of now, Google

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—"Rumor: Google To Buy YouTube?" *Gizmodo*, October 6, 2006

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[Googleverse](#)
[mobisode](#)
[viewer](#)



Subject Categories:

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[Computers - Internet](#)

Posted on December 11, 2006

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[Is the English Language Full?](#)
6/19/2008 8:35:00 AM

[It's Official: Teen](#)

Instant Messages

Nothing But Gibberish

6/18/2008 8:07:00 AM

Seth Godin Coins

Word

6/16/2008 10:07:00 AM

I'll Drink to That

6/12/2008 3:54:00 AM

A New Word Record:

3.6 Million Letters!

6/11/2008 8:14:00 AM

The Language

Manstinct

6/10/2008 4:08:00 AM

Mobile clubbing

6/8/2008 8:28:00 AM

I'm a Twit!

6/5/2008 4:22:00 PM

Blame Technology!

5/28/2008 7:48:00 AM

A Mess of MacBook Air

5/26/2008 9:54:00
AM

Ads by Google

[Youtube](#)

[Adult You Tube](#)

[ESL Word Games](#)

[Wise Words](#)



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Exhibit F

Pleading Documents for Opposition No. 91183905

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Annabelle DanielVarda

1600 Amphitheatre Parkway
Mountain View, CA 94043

Mailed: December 6, 2007

Serial No.: 77020099

ESTTA TRACKING NO: ESTTA179282

The request to extend time to oppose is granted until
1/5/2008 on behalf of potential opposer **Google Inc.**

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
be viewed using TTABVue at <http://ttabvue.uspto.gov>.

TRADEMARK TRIAL AND APPEAL BOARD RULE CHANGES

The USPTO has issued new rules pertaining to TTAB
proceedings. Parties are urged to familiarize themselves
with the new rules.

Among other changes, for any notice of opposition filed on
or after November 1, 2007, the new rules require an opposer
to provide proof of service of the notice of opposition
upon the applicant at the time the notice of opposition is
filed. Trademark Rule 2.101. (Parallel amendments to
Trademark Rule 2.111 require a petitioner to include proof
of service of the petition for cancellation.) Service may
be made by any of the means set out in Trademark Rule

2.119(b). A certificate of service is adequate proof of service; service by a process server is not necessary. A notice of opposition (or petition for cancellation) filed without a certificate of service will not be instituted.

The notice of final rulemaking and a chart summarizing the changes contained in the notice are available for viewing on the TTAB web page:

www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf

www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Annabelle DanielVarda

1600 Amphitheatre Parkway
Mountain View, CA 94043

Mailed: January 5, 2008

Serial No.: 77020099

ESTTA TRACKING NO: ESTTA184747

The request to extend time to oppose is granted until
3/5/2008 on behalf of potential opposer **Google Inc.**

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
be viewed using TTABVue at <http://ttabvue.uspto.gov>.

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to provide proof of service of the notice of opposition
upon the applicant at the time the notice of opposition is
filed. Trademark Rule 2.101. (Parallel amendments to
Trademark Rule 2.111 require a petitioner to include proof
of service of the petition for cancellation.) Service may
be made by any of the means set out in Trademark Rule

2.119(b). A certificate of service is adequate proof of service; service by a process server is not necessary. A notice of opposition (or petition for cancellation) filed without a certificate of service will not be instituted.

The notice of final rulemaking and a chart summarizing the changes contained in the notice are available for viewing on the TTAB web page:

www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf

www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Annabelle DanielVarda

1600 Amphitheatre Parkway
Mountain View, CA 94043

Mailed: March 3, 2008

Serial No.: 77020099

ESTTA TRACKING NO: ESTTA196001

The request to extend time to oppose is granted until
5/4/2008 on behalf of potential opposer **Google Inc.**

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
be viewed using TTABVue at <http://ttabvue.uspto.gov>.

TRADEMARK TRIAL AND APPEAL BOARD RULE CHANGES

The USPTO has issued new rules pertaining to TTAB
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or after November 1, 2007, the new rules require an opposer
to provide proof of service of the notice of opposition
upon the applicant at the time the notice of opposition is
filed. Trademark Rule 2.101. (Parallel amendments to
Trademark Rule 2.111 require a petitioner to include proof
of service of the petition for cancellation.) Service may
be made by any of the means set out in Trademark Rule

2.119(b). A certificate of service is adequate proof of service; service by a process server is not necessary. A notice of opposition (or petition for cancellation) filed without a certificate of service will not be instituted.

The notice of final rulemaking and a chart summarizing the changes contained in the notice are available for viewing on the TTAB web page:

www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf

www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

ESTTA Tracking number: **ESTTA209293**

Filing date: **05/05/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Google Inc.
Granted to Date of previous extension	05/04/2008
Address	1600 Amphitheatre Parkway Mountain View, CA 94043 UNITED STATES

Attorney information	James L. Vana Pekins Coie LLP 1201 Third Avenue 40th Floor Seattle, WA 98101-3099 UNITED STATES pctrademarks@perkinscoie.com Phone:206-359-3036
----------------------	--

Applicant Information

Application No	77020099	Publication date	11/06/2007
Opposition Filing Date	05/05/2008	Opposition Period Ends	05/04/2008
Applicant	Eric Watson 7718 46th Place West Mukilteo, WA 98275 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. All goods and services in the class are opposed, namely: Hosting of digital content on the internet, namely, hosting of digital media content for infants, children, and the parents of small children
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	78802261	Application Date	01/30/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	YOUTUBE		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	<p>Class 009. First use: (Based on Intent to Use) Software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network</p> <p>Class 035. First use: (Based on Intent to Use) Advertising and advertisement, promotion and marketing services for providing electronic media or information over the Internet or other communications network</p> <p>Class 038. First use: First Use: 2005/04/24 First Use In Commerce: 2005/04/24 Audio and video broadcasting services over the Internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing access to information, audio, and video via websites, online forums, chat rooms, listservs and blogs over the Internet; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest</p> <p>Class 041. First use: First Use: 2005/04/24 First Use In Commerce: 2005/04/24 Education and entertainment services, namely, providing a website featuring audio clips, video clips, musical performances, musical videos, film clips, photographs, other multimedia materials, and information in the field of audio clips, video clips, musical performances, musical videos, film clips, photographs, and other multimedia materials; blogs featuring information in the field of audio clips, video clips, musical performances, musical videos, film clips, photographs, and other multimedia materials</p> <p>Class 042. First use: First Use: 2005/04/24 First Use In Commerce: 2005/04/24 Application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network</p>

U.S. Application No.	78802278	Application Date	01/30/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	YOU TUBE		
Design Mark			
Description of Mark	"The mark consists of the word "You" in black, and the word "Tube" in white on a red viewing monitor."		
Goods/Services	<p>Class 009. First use: (Based on Intent to Use) Software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network</p> <p>Class 035. First use: (Based on Intent to Use) Advertising and advertisement, promotion and marketing services for providing electronic media or information over the Internet or other communications network</p> <p>Class 038. First use: First Use: 2005/04/24 First Use In Commerce: 2005/04/24 Audio and video broadcasting services over the Internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing access to information, audio, and video via websites, online forums, chat rooms, listservs and blogs over the Internet; providing on-line chat rooms</p>		

	<p>and electronic bulletin boards for transmission of messages among users in the field of general interest</p> <p>Class 041. First use: First Use: 2005/04/24 First Use In Commerce: 2005/04/24 Education and entertainment services, namely, providing a website featuring audio clips, video clips, musical performances, musical videos, film clips, photographs, other multimedia materials, and information in the field of audio clips, video clips, musical performances, musical videos, film clips, photographs, and other multimedia materials; blogs featuring information in the field of audio clips, video clips, musical performances, musical videos, film clips, photographs, and other multimedia materials</p> <p>Class 042. First use: First Use: 2005/04/24 First Use In Commerce: 2005/04/24 Application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network</p>
--	--

Attachments	<p>78802261#TMSN.jpeg (1 page)(bytes)</p> <p>78802278#TMSN.jpeg (1 page)(bytes)</p> <p>GOOTUBE Notice of Opposition.pdf (22 pages)(666254 bytes)</p>
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/Richard R. Ronald/
Name	Richard R. Ronald
Date	05/05/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

ERIC WATSON,

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

Application Serial No.: 77/020,099

Filing Date: October 12, 2006

Publication Date: November 6, 2007

Google Inc. ("Opposer") believes that it will be damaged by registration of the mark GOOTUBE.COM ("Applicant's Mark") by Eric Watson ("Applicant") with those services ("Applicant's Services") listed in Application Serial No. 77/020,099 (the "Application"), and hereby opposes the Application. As grounds for its opposition, Opposer alleges as follows:

I. PARTIES

1. Opposer is a Delaware corporation having its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043.
2. On information and belief, Applicant is an individual citizen of the United States of America, residing at 7718 46th Place West, Mukilteo, WA 98275.

II. OPPOSER'S MARK, GOODS AND SERVICES

3. Opposer is the owner of applications Serial No. 78/802,261 and 78/802,278 ("Opposer's Applications"), for the trademarks YOUTUBE and YOU TUBE ("Opposer's Marks").
4. Soft copies of Opposer's Applications, in the form of excerpts from the on-line records of the federal Trademark Office, are attached as Exhibit A hereto.
5. Opposer's Applications cover those goods and services listed in Opposer's Applications attached as Exhibit A ("Opposer's Goods and Services").
6. Opposer provides a variety of services, including an online video service, with an Internet website where users can upload, watch and share original videos across the Internet through websites, mobile devices, blogs, and email under Opposer's Marks.

7. Each of Opposer's Applications was filed before October 12, 2006.

IV. APPLICANT'S MARK AND SERVICES

8. The Application was filed on October 12, 2006 ("Applicant's Filing Date") based on an intent to use Applicant's Mark in commerce.
9. The Application was published for opposition in the Official Gazette on November 6, 2007.
10. The services listed in the Application are "Hosting of digital content on the internet, namely, hosting of digital media content for infants, children, and the parents of small children."
11. On information and belief, Applicant has not used Applicant's Mark in commerce with any of Applicant's Services prior to Applicant's Filing Date.

V. PLEADING HISTORY

12. On December 6, 2007, Opposer filed a request to extend the time to oppose registration of Applicant's Mark. The Trademark Trial and Appeal Board granted Opposer's request, resetting Opposer's deadline to file a Notice of Opposition for January 5, 2008. *See* Exhibit B attached hereto.
13. On January 4, 2008, Opposer filed a request to further extend the time to oppose registration of Applicant's Mark. The Trademark Trial and Appeal Board subsequently granted a further extension of time until March 5, 2008. *See* Exhibit B attached hereto.
14. On March 3, 2008, with Applicant's consent, Opposer filed a request to further extend the time to oppose registration of Applicant's Mark. The Trademark Trial and Appeal Board subsequently granted a further extension of time until May 4, 2008. *See* Exhibit B attached hereto.

VI. LIKELIHOOD OF CONFUSION CLAIM

15. Opposer's Marks are distinctive for Opposer's Goods and Services.
16. For each of the use-based services listed in Opposer's Applications (attached hereto as Exhibit A), Opposer has continuously used Opposer's Marks in connection with such services since the first use dates claimed in such applications.

17. Opposer has not abandoned Opposer's Marks in connection with any of Opposer's Goods and Services.
18. Opposer has priority with respect to Opposer's Marks versus Applicant's Mark.
19. As a result of its extensive use and promotion, Opposer's Marks have developed substantial goodwill and are strong and famous marks.
20. Applicant's Mark is composed of the term GOOTUBE and the top-level domain .COM.
21. When spoken, the term GOO in Applicant's Mark rhymes with the term ZOO.
22. When spoken, the term TUBE in Applicant's Mark rhymes with the term LUBE.
23. When spoken, Applicant's Mark has two syllables with emphasis placed equally on each.
24. When spoken, the terms YOUTUBE and GOOTUBE rhyme and have the same emphasis pattern.
25. Opposer's Marks and Applicant's Mark are highly similar.
26. Applicant's Services are related to Opposer's Goods and Services.
27. In view of the highly similar nature of the parties' marks and the related nature of the goods and services of the parties, Applicant's Mark so resembles Opposer's Marks as to be likely to cause confusion, or to cause mistake, or to deceive as to the origin, sponsorship and approval of Applicant's Services, and is likely to suggest an affiliation, connection or association of Applicant and Applicant's Services with Opposer and Opposer's Goods and Services, with consequent injury to Opposer, the trade and to the public.
28. The registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with Opposer's Marks. Therefore, the registration of Applicant's Mark would damage and injure Opposer.
29. Opposer will also be damaged by the registration of Applicant's Mark because such registration will support statutory rights for Applicant in violation and derogation of Opposer's prior, superior and exclusive rights in Opposer's Marks.

VII. REQUEST FOR RELIEF

WHEREFORE, Opposer requests that the mark in Application Serial No. 77-020,999 be denied registration in Class 42.

DATED: May 5, 2008

Respectfully submitted,

<p>CERTIFICATE OF SERVICE</p> <p>I hereby certify that this NOTICE OF OPPOSITION is being deposited with the United States Postal Service with sufficient postage as first class mail on May 5, 2008 in an envelope addressed to Michael F. Hughes, attorney for Applicant, at Hughes Law Firm, PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98226-5583.</p> <p>Signature: <u><i>Linda L. Martin</i></u> Printed Name: <u>LINDA L. MARTIN</u></p>	<p>PERKINS COIE LLP</p> <p>By <u><i>[Signature]</i></u> James L. Vana Richard R. Ronald Perkins Coie LLP 1201 Third Avenue, 40th Floor Seattle, Washington 98101-3099 (206) 359-3036 Attorneys for Google Inc.</p>
---	---

Exhibit A

Soft Copies of Opposer's Applications

Trademark Electronic Search System (TESS)

TARR Status **ASSIGN Status** **TDR** **TTAB Status** (Use the "Back" button of the Internet Browser
TESS)

YouTube

Word Mark
Goods and
Services

YOUTUBE

IC 009. US 021 023 026 036 038. G & S: (Based on Intent to Use) Software to enable uploading, posting, sharing, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network

IC 035. US 100 101 102. G & S: (Based on Intent to Use) Advertising and advertisement, promotion and marketing providing electronic media or information over the Internet or other communications network

IC 038. US 100 101 104. G & S: Audio and video broadcasting services over the Internet or other communications network; uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video content to information, audio, and video via websites, online forums, chat rooms, listservs and blogs over the Internet; chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest. FIRST USE: 20050424. FIRST USE IN COMMERCE: 20050424

IC 041. US 100 101 107. G & S: Education and entertainment services, namely, providing a website featuring clips, musical performances, musical videos, film clips, photographs, other multimedia materials, and information; clips, video clips, musical performances, musical videos, film clips, photographs, and other multimedia materials; information in the field of audio clips, video clips, musical performances, musical videos, film clips, photographs and other multimedia materials. FIRST USE: 20050424. FIRST USE IN COMMERCE: 20050424

IC 042. US 100 101. G & S: Application service provider (ASP) featuring software to enable uploading, posting, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network. FIRST USE: 20050424. FIRST USE IN COMMERCE: 20050424

Standard
Characters
Claimed

Trademark Electronic Search System (TESS)

Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78802261
Filing Date	January 30, 2006
Current Filing Basis	1A;1B
Original Filing Basis	1A
Published for Opposition	September 25, 2007
International Registration Number	0897049
Owner	(APPLICANT) GOOGLE INC. CORPORATION DELAWARE 1600 AMPHITHEATRE PARKWAY MOUNTAIN 94043
Assignment Recorded	ASSIGNMENT RECORDED
Type of Mark Register	TRADEMARK. SERVICE MARK PRINCIPAL
Live/Dead Indicator	LIVE

USPTO Assignments on the Web



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 5

Serial #: 78802261

Filing Dt: 01/30/2006

Reg #: NONE

Reg. D

Applicant: YouTube, Inc.

Mark: *** CLEARPATH SYSTEM IS NOT AVAILABLE ***

Assignment: 1

Reel/Frame: 3539/0826

Received: 05/10/2007

Recorded: 05/10/2007

Conveyance: MERGER

Assignor: SNOWMASS HOLDINGS INC.

Exec Dt: 11/13/2006

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: YOUTUBE, INC.

1000 CHERRY AVENUE, SUITE 200

SAN BRUNO, CALIFORNIA 94066

Correspondent: TANDA L.NEUNDORF,ESQ.,FENWICK & WEST LLP

SILICON VALLEY CENTER

801 CALIFORNIA STREET

MOUNTAIN VIEW, CA 94041-2008

Assignment: 2

Reel/Frame: 3540/0216

Received: 05/11/2007

Recorded: 05/11/2007

Conveyance: MERGER

Assignor: YOUTUBE, INC.

Exec Dt: 11/13/2006

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: SNOWMASS NEWCO LLC

1600 AMPHITHEATER PARKWAY

MOUNTAIN VIEW, CALIFORNIA 94043

Correspondent: TANDA L.NEUNDORF,ESQ.,FENWICK & WEST LLP

SILICON VALLEY CENTER

USPTO Assignments on the Web

801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041-2008

Assignment: 3

Reel/Frame: 3540/0635

Received: 05/11/2007

Recorded: 05/11/2007

Conveyance: CHANGE OF NAME

Assignor: SNOWMASS_NEWCO.LLC

Exec Dt: 11/13/2006

Entity Type: LIMITED LIABIL

Citizenship: DELAWARE

Entity Type: LIMITED LIABIL

Citizenship: DELAWARE

Assignee: YOUTUBE,LLC
1000 CHERRY AVENUE, SUITE 200
SAN BRUNO, CALIFORNIA 94066

Correspondent: TANDA L.NEUNDORF,ESQ.,FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041-2008

Assignment: 4

Reel/Frame: 3551/0521

Received: 05/30/2007

Recorded: 05/30/2007

Conveyance: SUBMISSION IS TO CORRECT AN ERROR MADE IN A PREVIOUSLY RECORDED DOCUMENT THAT ERRONEOUSLY AFFECTS THE II SNOWMASS HOLDINGS INC. WAS NEVER THE OWNER OF THE APPLICATIONS.

Assignor: YOUTUBE,INC.

Exec Dt: 11/13/2006

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: YOUTUBE,INC.
1000 CHERRY AVENUE, SUITE 200
SAN BRUNO, CALIFORNIA 94066

Correspondent: TANDA L. NEUNDORF, ESQ.
SILICON VALLEY CTR., 801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

Assignment: 5

Reel/Frame: 3588/0001

Received: 07/24/2007

Recorded: 07/24/2007

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: YOUTUBE,LLC

Formerly: FORMERLY SNOWMASS NEWCO LLC

Exec Dt: 07/24/2007

Entity Type: LIMITED LIABIL

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: GOOGLE,INC.
1600 AMPHITHEATRE PARKWAY

MOUNTAIN VIEW, CALIFORNIA 94043

Correspondent: TU TSAO

1600 AMPHITHEATRE PARKWAY

MOUNTAIN VIEW, CA 94043

Search Results as of: 05/05/2008 01:49 PM

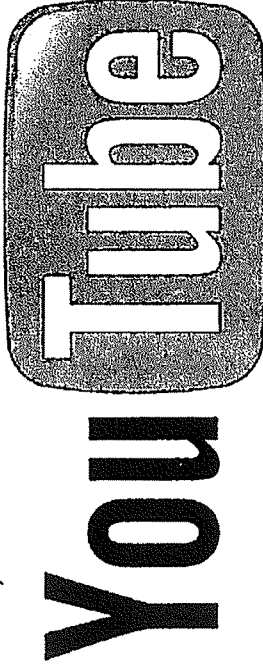
If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350, v.2.0.1
Web interface last modified: April 20, 2007 v.2.0.1

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(Use the "Back" button of the Internet Browser to return to

TESS)



Word Mark
Goods and
Services

YOU TUBE

IC 009. US 021 023 026 036 038. G & S: (Based on Intent to Use) Software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network

IC 035. US 100 101 102. G & S: (Based on Intent to Use) Advertising and advertisement, promotion and marketing services for providing electronic media or information over the Internet or other communications network

IC 038. US 100 101 104. G & S: Audio and video broadcasting services over the Internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing access to information, audio, and video via websites, online forums, chat rooms, listservs and blogs over the Internet; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest. FIRST USE: 20050424. FIRST USE IN COMMERCE: 20050424

IC 041. US 100 101 107. G & S: Education and entertainment services, namely, providing a website featuring audio clips, video clips, musical performances, musical videos, film clips, photographs, other multimedia materials, and information in the field of audio clips, video clips, musical performances, musical videos, film clips, photographs, and other multimedia materials; blogs featuring information in the field of audio clips, video clips, musical performances, musical videos, film clips, photographs, and other multimedia materials. FIRST USE: 20050424. FIRST USE IN COMMERCE: 20050424

IC 042. US 100 101. G & S: Application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network. FIRST USE: 20050424. FIRST USE IN COMMERCE: 20050424

Mark Drawing
Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search

26.11.02 - Plain single line rectangles; Rectangles (single line)

Trademark Electronic Search System (TESS)

Code	26.11.21 - Rectangles that are completely or partially shaded
Serial Number	78802278
Filing Date	January 30, 2006
Current Filing Basis	1A;1B
Original Filing Basis	1A
Published for Opposition	September 25, 2007
Owner	(APPLICANT) GOOGLE INC. CORPORATION DELAWARE 1600 AMPHITHEATRE PARKWAY MOUNTAIN V 94043
Assignment Recorded	ASSIGNMENT RECORDED
Description of Mark	"The color(s) black, red and white is/are claimed as a feature of the mark." "The mark consists of the word "You Tube" in white on a red viewing monitor."
Type of Mark	TRADEMARK. SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

USPTO Assignments on the Web



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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 5

Serial #: 78802278

Filing Dt: 01/30/2006

Reg #: NONE

Reg. D

Applicant: YouTube, Inc.

Mark: YOU TUBE

Assignment: 1

Reel/Frame: 3539/0826

Received: 05/10/2007

Recorded: 05/10/2007

Conveyance: MERGER

Assignor: SNOWMASS HOLDINGS INC.

Exec Dt: 11/13/2006

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: YOUTUBE, INC.

1000 CHERRY AVENUE, SUITE 200

SAN BRUNO, CALIFORNIA 94066

Correspondent: TANDA L.NEUNDORF,ESQ.,FENWICK & WEST LLP

SILICON VALLEY CENTER

801 CALIFORNIA STREET

MOUNTAIN VIEW, CA 94041-2008

Assignment: 2

Reel/Frame: 3540/0216

Received: 05/11/2007

Recorded: 05/11/2007

Conveyance: MERGER

Assignor: YOUTUBE, INC.

Exec Dt: 11/13/2006

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: LIMITED LIABIL

Citizenship: DELAWARE

Assignee: SNOWMASS NEWCO LLC

1600 AMPHITHEATER PARKWAY

MOUNTAIN VIEW, CALIFORNIA 94043

Correspondent: TANDA L.NEUNDORF,ESQ.,FENWICK & WEST LLP

SILICON VALLEY CENTER

USPTO Assignments on the Web

801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041-2008

Assignment: 3

Reel/Frame: 3540/0635

Received: 05/11/2007

Recorded: 05/11/2007

Conveyance: CHANGE OF NAME

Assignor: SNOWMASS NEWCO LLC

Exec Dt: 11/13/2006

Entity Type: LIMITED LIABIL

Citizenship: DELAWARE

Entity Type: LIMITED LIABIL

Citizenship: DELAWARE

Assignee: YOUTUBE, LLC

1000 CHERRY AVENUE, SUITE 200
SAN BRUNO, CALIFORNIA 94066

Correspondent: TANDA L. NEUNDORF, ESQ., FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041-2008

Assignment: 4

Reel/Frame: 3551/0521

Received: 05/30/2007

Recorded: 05/30/2007

Conveyance: SUBMISSION IS TO CORRECT AN ERROR MADE IN A PREVIOUSLY RECORDED DOCUMENT THAT ERRONEOUSLY AFFECTS THE IC
SNOWMASS HOLDINGS INC. WAS NEVER THE OWNER OF THE APPLICATIONS.

Assignor: YOUTUBE, INC.

Exec Dt: 11/13/2006

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: YOUTUBE, INC.

1000 CHERRY AVENUE, SUITE 200
SAN BRUNO, CALIFORNIA 94066

Correspondent: TANDA L. NEUNDORF, ESQ.
SILICON VALLEY CTR., 801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

Assignment: 5

Reel/Frame: 3588/0001

Received: 07/24/2007

Recorded: 07/24/2007

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: YOUTUBE, LLC

Formerly: FORMERLY SNOWMASS NEWCO LLC

Exec Dt: 07/24/2007

Entity Type: LIMITED LIABIL

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: GOOGLE INC.

1600 AMPHITHEATRE PARKWAY

Correspondent: TU TSAO
MOUNTAIN VIEW, CALIFORNIA 94043
1600 AMPHITHEATRE PARKWAY
MOUNTAIN VIEW, CA 94043

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350, v.2.0.1
Web Interface last modified: April 20, 2007 v.2.0.1

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Exhibit B

Extensions of Time to Oppose Granted to Opposer

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Annabelle DanielVarda

1600 Amphitheatre Parkway
Mountain View, CA 94043

Mailed: December 6, 2007

Serial No.: 77020099
ESTTA TRACKING NO: ESTTA179282

The request to extend time to oppose is granted until
1/5/2008 on behalf of potential opposer Google Inc.

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
be viewed using TTABVue at <http://ttabvue.uspto.gov>.

TRADEMARK TRIAL AND APPEAL BOARD RULE CHANGES

The USPTO has issued new rules pertaining to TTAB
proceedings. Parties are urged to familiarize themselves
with the new rules.

Among other changes, for any notice of opposition filed on
or after November 1, 2007, the new rules require an opposer
to provide proof of service of the notice of opposition
upon the applicant at the time the notice of opposition is
filed. Trademark Rule 2.101. (Parallel amendments to
Trademark Rule 2.111 require a petitioner to include proof
of service of the petition for cancellation.) Service may
be made by any of the means set out in Trademark Rule

2.119(b). A certificate of service is adequate proof of service; service by a process server is not necessary. A notice of opposition (or petition for cancellation) filed without a certificate of service will not be instituted.

The notice of final rulemaking and a chart summarizing the changes contained in the notice are available for viewing on the TTAB web page:

www.uspto.gov/web/offices/com/sol/noticcs/72fr42242.pdf

www.uspto.gov/web/offices/com/sol/noticcs/72fr42242_FinalRuleChart.pdf

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Annabelle DanielVarda

1600 Amphitheatre Parkway
Mountain View, CA 94043

Mailed: January 5, 2008

Serial No.: 77020099

ESTTA TRACKING NO: ESTTA184747

The request to extend time to oppose is granted until
3/5/2008 on behalf of potential opposer Google Inc.

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
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upon the applicant at the time the notice of opposition is
filed. Trademark Rule 2.101. (Parallel amendments to
Trademark Rule 2.111 require a petitioner to include proof
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be made by any of the means set out in Trademark Rule

2.119(b). A certificate of service is adequate proof of service; service by a process server is not necessary. A notice of opposition (or petition for cancellation) filed without a certificate of service will not be instituted.

The notice of final rulemaking and a chart summarizing the changes contained in the notice are available for viewing on the TTAB web page:

www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf

www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Annabelle DanielVarda

1600 Amphitheatre Parkway
Mountain View, CA 94043

Mailed: March 3, 2008

Serial No.: 77020099
ESTTA TRACKING NO: ESTTA196001

The request to extend time to oppose is granted until
5/4/2008 on behalf of potential opposer Google Inc.

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
be viewed using TTABVue at <http://ttabvue.uspto.gov>.

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filed. Trademark Rule 2.101. (Parallel amendments to
Trademark Rule 2.111 require a petitioner to include proof
of service of the petition for cancellation.) Service may
be made by any of the means set out in Trademark Rule

2.119(b) . A certificate of service is adequate proof of service; service by a process server is not necessary. A notice of opposition (or petition for cancellation) filed without a certificate of service will not be instituted.

The notice of final rulemaking and a chart summarizing the changes contained in the notice are available for viewing on the TTAB web page:

www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf

www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: May 5, 2008

Opposition No. 91183905
Serial No. 77020099

MICHAEL F. HUGHES
HUGHES LAW FIRM, PLLC
4164 MERIDIAN ST STE 302
BELLINGHAM, WA 98226-5583
carole@inventionlaw.com

Google Inc.

v.

Eric Watson

James L. Vana
Pekins Coie LLP
1201 Third Avenue 40th Floor
Seattle, WA 98101-3099
pctrademarks@perkinscoie.com

ESTTA209293

A notice of opposition to the registration sought by the above-identified application has been filed. A service copy of the notice of opposition was forwarded to applicant (defendant) by the opposer (plaintiff). An electronic version of the notice of opposition is viewable in the electronic file for this proceeding via the Board's TTABVUE system: <http://ttabvue.uspto.gov/ttabvue/v?qs=91183905>.

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations ("Trademark Rules"). These rules may be viewed at the USPTO's trademarks page: <http://www.uspto.gov/main/trademarks.htm>. The Board's main webpage (<http://www.uspto.gov/web/offices/dcom/ttab/>) includes information on amendments to the Trademark Rules applicable to Board proceedings, on Alternative Dispute Resolution (ADR), Frequently Asked Questions about Board proceedings, and a web link to the Board's manual of procedure (the TBMP).

Plaintiff must notify the Board when service has been ineffective, within 10 days of the date of receipt of a returned service copy or the date on which plaintiff learns that service has been ineffective. Plaintiff has no subsequent duty to investigate the defendant's whereabouts, but if plaintiff by its own voluntary investigation or through any other means discovers a newer correspondence address for

the defendant, then such address must be provided to the Board. Likewise, if by voluntary investigation or other means the plaintiff discovers information indicating that a different party may have an interest in defending the case, such information must be provided to the Board. The Board will then effect service, by publication in the Official Gazette if necessary. See Trademark Rule 2.118. In circumstances involving ineffective service or return of defendant's copy of the Board's institution order, the Board may issue an order noting the proper defendant and address to be used for serving that party.

Defendant's ANSWER IS DUE FORTY DAYS after the mailing date of this order. (See Patent and Trademark Rule 1.7 for expiration of this or any deadline falling on a Saturday, Sunday or federal holiday.) Other deadlines the parties must docket or calendar are either set forth below (if you are reading a mailed paper copy of this order) or are included in the electronic copy of this institution order viewable in the Board's TTABVue system at the following web address:
<http://ttabvue.uspto.gov/ttabvue/>.

Defendant's answer and any other filing made by any party must include proof of service. See Trademark Rule 2.119. If they agree to, the parties may utilize electronic means, e.g., e-mail or fax, during the proceeding for forwarding of service copies. See Trademark Rule 2.119(b) (6).

The parties also are referred in particular to Trademark Rule 2.126, which pertains to the form of submissions. Paper submissions, including but not limited to exhibits and transcripts of depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

Time to Answer	6/14/2008
Deadline for Discovery Conference	7/14/2008
Discovery Opens	7/14/2008
Initial Disclosures Due	8/13/2008
Expert Disclosures Due	12/11/2008
Discovery Closes	1/10/2009
Plaintiff's Pretrial Disclosures	2/24/2009
Plaintiff's 30-day Trial Period Ends	4/10/2009
Defendant's Pretrial Disclosures	4/25/2009
Defendant's 30-day Trial Period Ends	6/9/2009
Plaintiff's Rebuttal Disclosures	6/24/2009
Plaintiff's 15-day Rebuttal Period Ends	7/24/2009

As noted in the schedule of dates for this case, the parties are required to have a conference to discuss: (1) the nature of and basis for their respective claims and defenses, (2) the possibility of settling the case or at least narrowing the scope of claims or defenses, and (3) arrangements relating to disclosures, discovery and

introduction of evidence at trial, should the parties not agree to settle the case. See Trademark Rule 2.120(a)(2). Discussion of the first two of these three subjects should include a discussion of whether the parties wish to seek mediation, arbitration or some other means for resolving their dispute. Discussion of the third subject should include a discussion of whether the Board's Accelerated Case Resolution (ACR) process may be a more efficient and economical means of trying the involved claims and defenses. Information on the ACR process is available at the Board's main webpage. Finally, if the parties choose to proceed with the disclosure, discovery and trial procedures that govern this case and which are set out in the Trademark Rules and Federal Rules of Civil Procedure, then they must discuss whether to alter or amend any such procedures, and whether to alter or amend the Standard Protective Order (further discussed below). Discussion of alterations or amendments of otherwise prescribed procedures can include discussion of limitations on disclosures or discovery, willingness to enter into stipulations of fact, and willingness to enter into stipulations regarding more efficient options for introducing at trial information or material obtained through disclosures or discovery.

The parties are required to conference in person, by telephone, or by any other means on which they may agree. A Board interlocutory attorney or administrative trademark judge will participate in the conference, upon request of any party, provided that such participation is requested no later than ten (10) days prior to the deadline for the conference. See Trademark Rule 2.120(a)(2). The request for Board participation must be made through the Electronic System for Trademark Trials and Appeals (ESTTA) or by telephone call to the interlocutory attorney assigned to the case, whose name can be found by referencing the TTABVUE record for this case at <http://ttabvue.uspto.gov/ttabvue/>. The parties should contact the assigned interlocutory attorney or file a request for Board participation through ESTTA only after the parties have agreed on possible dates and times for their conference. Subsequent participation of a Board attorney or judge in the conference will be by telephone and the parties shall place the call at the agreed date and time, in the absence of other arrangements made with the assigned interlocutory attorney.

The Board's Standard Protective Order is applicable to this case, but the parties may agree to supplement that standard order or substitute a protective agreement of their choosing, subject to approval by the Board. The standard order is available for viewing at: <http://www.uspto.gov/web/offices/dcom/ttab/tbamp/stndagmnt.htm>. Any party without access to the web may request a hard copy of the standard order from the Board. The standard order does not automatically protect a party's confidential information and its provisions must be utilized as needed by the parties. See Trademark Rule 2.116(g).

Information about the discovery phase of the Board proceeding is available in chapter 400 of the TBMP. By virtue of amendments to the Trademark Rules effective November 1, 2007, the initial disclosures and expert disclosures scheduled during the discovery phase are required only in cases commenced on or after that date. The TBMP has not yet been amended to include information on these disclosures and the parties are referred to the August 1, 2007 Notice of Final Rulemaking (72 Fed. Reg. 42242) posted on the Board's webpage. The deadlines for

pretrial disclosures included in the trial phase of the schedule for this case also resulted from the referenced amendments to the Trademark Rules, and also are discussed in the Notice of Final Rulemaking.

The parties must note that the Board allows them to utilize telephone conferences to discuss or resolve a wide range of interlocutory matters that may arise during this case. In addition, the assigned interlocutory attorney has discretion to require the parties to participate in a telephone conference to resolve matters of concern to the Board. See TBMP § 502.06(a) (2d ed. rev. 2004).

The TBMP includes information on the introduction of evidence during the trial phase of the case, including by notice of reliance and by taking of testimony from witnesses. See TBMP §§ 703 and 704. Any notice of reliance must be filed during the filing party's assigned testimony period, with a copy served on all other parties. Any testimony of a witness must be both noticed and taken during the party's testimony period. A party that has taken testimony must serve on any adverse party a copy of the transcript of such testimony, together with copies of any exhibits introduced during the testimony, within thirty (30) days after the completion of the testimony deposition. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing after briefing is not required but will be scheduled upon request of any party, as provided by Trademark Rule 2.129.

If the parties to this proceeding are (or during the pendency of this proceeding become) parties in another Board proceeding or a civil action involving related marks or other issues of law or fact which overlap with this case, they shall notify the Board immediately, so that the Board can consider whether consolidation or suspension of proceedings is appropriate.

ESTTA NOTE: For faster handling of all papers the parties need to file with the Board, the Board strongly encourages use of electronic filing through the Electronic System for Trademark Trials and Appeals (ESTTA). Various electronic filing forms, some of which may be used as is, and others which may require attachments, are available at <http://estta.uspto.gov>.

ESTTA Tracking number: **ESTTA218094**

Filing date: **06/16/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91183905
Party	Defendant Eric Watson
Correspondence Address	MICHAEL F. HUGHES HUGHES LAW FIRM, PLLC 4164 MERIDIAN ST STE 302 BELLINGHAM, WA 98226-5583 carole@inventionlaw.com
Submission	Answer
Filer's Name	Michael F. Hughes
Filer's e-mail	carole@inventionlaw.com
Signature	/Michael F. Hughes/
Date	06/16/2008
Attachments	2008-06-16-Response-to-Opposition.pdf (4 pages)(326074 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

GOOGLE INC.,)	
)	
Opposer)	
)	
v.)	Opposition No.: 91183905
)	
ERIC WATSON,)	
)	
Applicant)	
)	
)	
)	

APPLICANT'S ANSWER TO OPPOSITION

Applicant, Eric Watson, by his attorney, hereby answers the allegations set forth in the Notice of Opposition as follows:

1. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition and, therefore, denies said allegations.
2. Applicant admits the allegations set forth in Paragraph 2 of the Notice of Opposition.
3. Applicant has not thoroughly researched the ownership of the Application Serial No. 78/802, 261 and 78/802,278 and, therefore, denies said allegations.
4. Applicant admits the allegations set forth in Paragraph 4 of the Notice of Opposition.
5. Opposer's allegation in Paragraph 5 is vague and requires further analysis, and therefore Applicant denies said allegation.
6. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 6 of the Notice of Opposition and, therefore, denies said allegations.

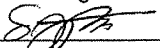
7. Applicant admits the allegations set forth in Paragraph 4 of the Notice of Opposition.
8. Applicant admits the allegations set forth in Paragraph 8 of the Notice of Opposition.
9. Applicant admits the allegations set forth in Paragraph 9 of the Notice of Opposition.
10. Applicant admits the allegations set forth in Paragraph 10 of the Notice of Opposition.
11. The Applicant had acquired the domain name "www.gootube.com" prior to October 12, 2006 with the intent to eventually provide digital content related to small children and the parents thereof. Present analysis indicates that there was not sufficient use to classify as use in commerce, and therefore the Applicant admits the allegation as set forth in Paragraph 11 of the Notice of Opposition.
12. Applicant admits the allegations set forth in Paragraph 12 of the Notice of Opposition.
13. Applicant admits the allegations set forth in Paragraph 13 of the Notice of Opposition.
14. Applicant admits the allegations set forth in Paragraph 14 of the Notice of Opposition.
15. Applicant denies the allegations set forth in Paragraph 15 of the Notice of Opposition.
16. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 16 of the Notice of Opposition and, therefore, denies said allegations.
17. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 17 of the Notice of Opposition and, therefore, denies said allegations.
18. Applicant admits the allegations set forth in Paragraph 18 of the Notice of Opposition.

19. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 19 of the Notice of Opposition and, therefore, denies said allegations.
20. Applicant admits the allegations set forth in Paragraph 20 of the Notice of Opposition.
21. Applicant admits the allegations set forth in Paragraph 21 of the Notice of Opposition.
22. Applicant admits the allegations set forth in Paragraph 22 of the Notice of Opposition.
23. Applicant is not aware of the meaning of the Opposer's statement that emphasis is placed equally on each of the two syllables of Applicant's mark, and therefore denies said allegations in Paragraph 23 of the Notice of Opposition.
24. Applicant does not agree that the "same emphasis pattern" is present between the terms YOUTUBE and GOOTUBE, and is not clear as to the connotations within Paragraph 24 of the Notice of Opposition, and, therefore, denies said allegations.
25. Applicant denies the allegations set forth in Paragraph 25 of the Notice of Opposition.
26. Opposer's use of the term "related" in Paragraph 26 of the Notice of Opposition is vague, and Applicant therefore denies the allegations set forth in Paragraph 26 of the Notice of Opposition.
27. Applicant denies the allegations set forth in Paragraph 27 of the Notice of Opposition.
28. Applicant denies the allegations set forth in Paragraph 28 of the Notice of Opposition.
29. Applicant denies the allegations set forth in Paragraph 29 of the Notice of Opposition.

Respectfully submitted,

Certificate of Service

I hereby certify that this document (along with any document referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as First Class Mail on June 16, 2008 in an envelope addressed to James L. Vana, attorney for Opposer, at Perkins Coie LLP, 1201 third Avenue, 40th Floor, Seattle, Washington 98101-3099.

Signature: 

Printed Name: Stephanie J. Brown

HUGHES LAW FIRM, PLLC

By 

Michael F. Hughes

Hughes Law Firm, PLLC

1464 Meridian St. Ste. 302

Bellingham, WA 98226-5583

360-647-1296